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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA

8 ROBERT TUNSTALL,

9 Petitioner,

No. CIV S-04-2658 JAM JFM P

10 vs.

11 TERESA A. SCHWARTZ, et al.,

12 Respondents.

ORDER

13 _____/
14 Petitioner is a state prisoner proceeding pro se with an application for a writ of
15 habeas corpus pursuant to 28 U.S.C. § 2254. On March 17, 2008, the district court denied
16 petitioner's application. Judgment was entered on the same day. On March 28, 2008, petitioner
17 filed a notice of appeal and an application for a certificate of appealability. On April 11, 2008,
18 the district court denied petitioner's application for a certificate of appealability. Petitioner's
19 appeal was processed to the United States Court of Appeals for the Ninth Circuit on the same
20 day.

21 On April 7, 2008, petitioner filed his second request for appointment of counsel.
22 Petitioner's first request was denied by order filed January 18, 2008. As noted in the January 19,
23 2008 order, there currently exists no absolute right to appointment of counsel in habeas
24 proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C.
25 § 3006A authorizes the appointment of counsel at any stage of the case "if the interests of justice
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1 so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. This court does not find that the
2 interests of justice would be served by the appointment of counsel.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Petitioner’s April 7, 2008 motion for appointment of counsel is denied; and

5 2. The Clerk of the Court is directed to serve a copy of this order on the United
6 States Court of Appeals for the Ninth Circuit.

7 DATED: May 29, 2008.

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10 UNITED STATES MAGISTRATE JUDGE

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